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PATENT TRADEMARK OFFICE

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TECH CENTER 1600/2900

Attorney Docket No. 05725.0537-00  
Application No.: 09/883,229

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Mohamed KANJI et al.

Application No.: 09/883,229

Filed: June 19, 2001

For: COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE  
POLYMETHYLSILSESQUIOXANE FILM FORMER

Group Art Unit: 1615

Examiner: Not yet assigned

#8

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**BOX PG-PUB**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

**REQUEST FOR CORRECTED PATENT APPLICATION PUBLICATION**  
**UNDER 37 C.F.R. § 1.221(b)**

On March 14, 2002, the Office published the above-identified application No. 09/883,229 as Publication No. US-2002/0031488-A1. The published application contains mistakes that are the fault of the Office and may be material. Attached hereto is a copy of each relevant page of the originally filed application and a marked-up copy of the corresponding page of the published application containing the mistakes.

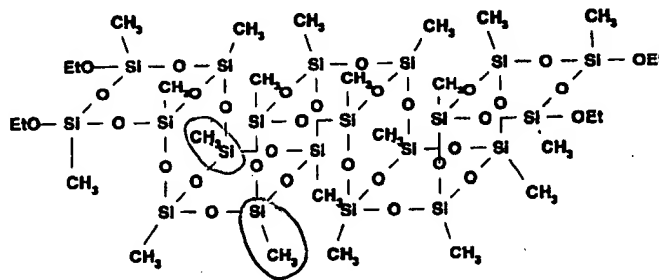
A mistake is material when it affects the public's ability to appreciate the technical disclosure of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. See C.F.R. § 1.221(b).

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The mistakes, which are indicated in red ink on the relevant pages of the marked-up copy of the published application attached hereto, are as follows:

1. In paragraph 40, in the figure of the Ladder configuration, the figure in the publication is missing the two CH<sub>3</sub>- groups circled below which were included in the figure of the originally filed application.



This mistake, therefore, results in the disclosure of an erroneous structure.

Thus, this mistake may be material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake may be material and accordingly should be corrected.

2. In paragraph 86, in the table, the published application recites:

"Phase D Fillers"	1.45	1.45
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However, the originally filed application recites

**"Phase D**

Fillers 1.45 1.45"

This mistake may be material as it may affect the public's ability to appreciate the technical disclosure of the patent application publication. For at least this reason, this mistake may be material and accordingly should be corrected.

For at least the foregoing reasons, Applicants request that the Office correct the mistakes identified above for which the Office is at fault in the published application, and forward to Applicants a copy of the corrected published application or at least a notification of the occurrence or predicted occurrence of the corrected publication once it has been corrected.

Applicants believe that no Petition or fee is due in connection with this Request. However, if any Petition or fee is due, please grant the Petition and charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

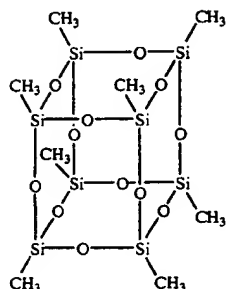
*Shahiv V. Dant, Reg. No. 39,064*  
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Reg. No. 45,958

Date: May 10, 2002

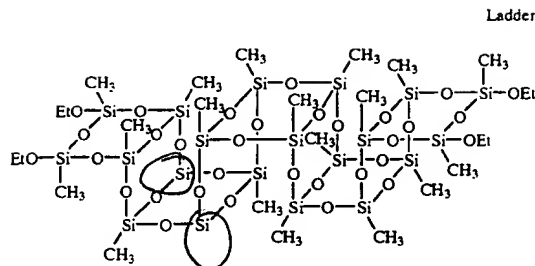
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Cage



Ladder

[0041] Another non-limiting example of the at least one polymethylsilsesquioxane film former suitable for use in the present invention is KR-220L, which is available from SHIN-ETSU. This polymethylsilsesquioxane film former is composed of silicone T-units (i.e., those of formula  $\text{CH}_3\text{SiO}_{3/2}$ ) and has Si-OH (or silanol) end units. There are no D units in KR-220L.

[0042] Other non-limiting examples of the at least one polymethylsilsesquioxane film former that may be useful in the practice of the invention include KR-242A (which is comprised of methyl T units (98%) and dimethyl D units (2%) and has Si-OH end units) and KR-251 (which is comprised of methyl T units (88%) and dimethyl D units (12%) and has Si-OH end units), both of which are available from SHIN-ETSU.

[0043] Depending on the application, the concentration of the at least one polymethylsilsesquioxane film former in the presently claimed composition may vary considerably. One of skill in the art will be able to determine routinely the amount of the at least one polymethylsilsesquioxane film former depending on the desired application.

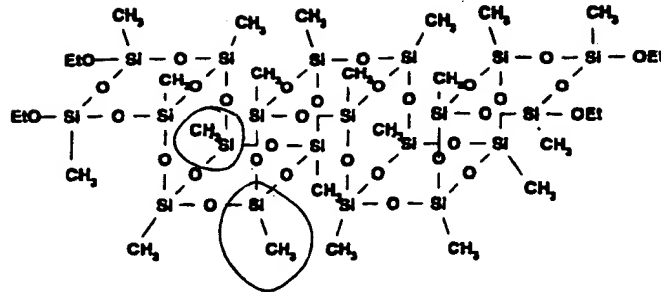
[0044] For example, for cosmetic foundations, the at least one polymethylsilsesquioxane film former may be present in the composition in an amount generally ranging from 0.1% to 30% by weight relative to the total weight of the composition, such as from 1% to 15% by weight. For eyeliner compositions, the at least one polymethylsilsesquioxane film former may be present in an amount generally ranging from 5% to 70% by weight relative to the total weight of the composition, such as from 20% to 70% by weight. For lip compositions, such as lipstick, the at least one polymethylsilsesquioxane film former may be present in an amount

generally ranging from 1% to 70% by weight relative to the total weight of the composition, such as from 10% to 70% by weight. For mascara compositions, the at least one polymethylsilsesquioxane film former may be present in an amount generally ranging from 1% to 25% by weight relative to the total weight of the composition, such as from 5% to 20% by weight. In one embodiment, the at least one polymethylsilsesquioxane film former is present in the composition in a higher amount than the at least one film former different from the at least one polymethylsilsesquioxane film former. One of ordinary skill in the art will recognize that the at least one polymethylsilsesquioxane film former different from the at least one polymethylsilsesquioxane film former according to the present invention may be commercially available, and may come from suppliers in the form of a dilute solution. The amounts of the at least one polymethylsilsesquioxane film former disclosed herein therefore reflect the weight percent of active material.

[0045] Thus, as the inventive compositions may be used in a variety of cosmetic, dermatological and/or pharmaceutical products, the effective amount of the at least one polymethylsilsesquioxane film former in a product (whether cosmetic or dermatological or pharmaceutical) is the amount necessary to obtain the desired degree of at least one property chosen from long wear and transfer resistance. One of ordinary skill in the art will also be able to determine routinely the amount of the at least one polymethylsilsesquioxane film former, the at least one film former different from the at least one polymethylsilsesquioxane film former, and any other ingredients, if present, needed to obtain a stable product depending on the application.

[0046] According to the present invention, the at least one film former different from the at least one polymethylsilsesquioxane film former may, for example, be chosen from those listed at pages 1744 to 1747 of the CITA International Cosmetic Ingredient Dictionary, 8<sup>th</sup> edition (2000). In one embodiment, the at least one film former different from the at least one polymethylsilsesquioxane film former is chosen from di-block copolymer film formers, tri-block copolymer film formers, multi-block copolymer film formers, radial copolymer film formers, and star block copolymer film formers, wherein the at least one film former different from the at least one polymethylsilsesquioxane film former comprises at least two thermodynamically incompatible segments. As defined herein, the foregoing copolymers comprise distinctive arrangements of both hard and soft segments. A non-limiting example of a hard segment is styrene, while non-limiting examples of soft segments include ethylene, propylene, butylene and combinations of any of the foregoing soft segments.

[0047] Non-limiting examples of the at least one film former different from the at least one polymethylsilsesquioxane film former useful in the present invention include: vinylpyrrolidone/vinyl acetate (PVP/VA) copolymers, such as Luviskol® VA copolymers available from BASF® Corporation and PVP/VA series copolymers available from from ISP; acrylic fluorinated emulsion film formers, such as Foraperle® film formers (e.g., Foraperle® 303 D available from Elf Atochem), although Foraperle® may not be suitable for some cosmetic formulations; GANEX® copolymers, such as butylated PVP, PVP/Hexadecene copolymers, PVP/Eicosene copolymers, and tricontanyl; Poly(vinylpyrrolidone/diethylaminoethyl methacrylate) copolymers and



[046]

[047] Ladder

[048] Another non-limiting example of the at least one

polymethylsilsesquioxane film former suitable for use in the present invention is KR-220L, which is available from SHIN-ETSU. This polymethylsilsesquioxane film former is composed of silicone T-units (*i.e.*, those of formula  $\text{CH}_3\text{SiO}_{3/2}$ ) and has Si-OH (or silanol) end units. There are no D units in KR-220L.

[049] Other non-limiting examples of the at least one

polymethylsilsesquioxane film former that may be useful in the practice of the invention include KR-242A (which is comprised of methyl T units (98%) and dimethyl D units (2%) and has Si-OH end units) and KR-251 (which is comprised of methyl T units (88%) and dimethyl D units (12%) and has Si-OH end units), both of which are available from SHIN-ETSU.

[050] Depending on the application, the concentration of the at least one polymethylsilsesquioxane film former in the presently claimed composition may vary considerably. One of skill in the art will be able to determine routinely the amount of the at least one polymethylsilsesquioxane film former depending on the desired application.

[051] For example, for cosmetic foundations, the at least one polymethylsilsesquioxane film former may be present in the composition in an

dation composition comprising trimethylsiloxysilicate instead of polymethylsilsesquioxane. All ingredients are listed in weight %.

	Composition A (Inventive)	Composition B (Comparative)
<b>Phase A</b>		
Organosilicone emulsifier	8.00	8.00
Ester emollient	2.50	2.50
Pigments	10.00	10.00
Fillers	1.00	1.00
Preservative	0.10	0.10
<b>Phase B</b>		
Volatile Solvent	15.00	15.00
Bentone	0.80	0.80
Propylene carbonate	0.15	0.15
Trimethylsiloxysilicate resin <sup>1</sup>	—	12.00
Resin MK <sup>2</sup>	12.00	—
Film formers (Isododecane & hydrogenated styrene-butylene-ethylene-styrene copolymer and hydrogenated ethylene-propylene-styrene copolymer <sup>3</sup> )	8.00	8.00
<b>Phase C</b>		
Propylene Glycol	1.50	1.50
Preservative	0.40	0.40
<b>Phase D</b>		
Fillers	1.45	1.45
<b>Phase E</b>		
Distilled Water	38.00	38.00
Emulsifier	0.20	0.20
Preservative	0.30	0.30
Salt	0.60	0.60

<sup>1</sup>: Trimethylsiloxysilicate resin available from GE as SR1000

<sup>2</sup>: Silicone Resin MK available from Wacker

<sup>3</sup>: Versagel MD570 from Penreco.

[0087] The inventive composition had more slip upon application, i.e., was easier to apply, and provided more coverage.

What is claimed is:

1. A composition comprising:

(a) at least one polymethylsilsesquioxane film former comprising repeating units of formula  $(\text{CH}_3\text{SiO}_{3/2})_x$ ; and

(b) at least one film former different from said at least one polymethylsilsesquioxane film former;

wherein x is the number of repeating units; and

further wherein said at least one polymethylsilsesquioxane film former is present in an amount effective to provide at least one property chosen from long wear and transfer resistance to said composition.

2. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former is present in an amount effective to provide long wear and transfer resistance to said composition.

3. The composition according to claim 1, wherein said composition is waterproof.

4. The composition according to claim 3, wherein said at least one polymethylsilsesquioxane film former is present in an amount effective to provide waterproof properties.

5. The composition according to claim 1, wherein x is less than or equal to 500.

6. The composition according to claim 1, wherein x ranges from 50 to 500.

7. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former has a melting point ranging from 40° C. to 80° C.

8. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former further comprises up to 1% of units of formula  $(\text{CH}_3)_2\text{SiO}_{2/2}$ .

9. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former is present in said composition in an amount ranging from 0.1% to 70% by weight relative to the total weight of said composition.

10. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former has a weight average molecular weight ranging from 500 to 20,000.

11. The composition according to claim 10, wherein said at least one polymethylsilsesquioxane film former has a weight average molecular weight of 10,000.

12. The composition according to claim 1, wherein said at least one film former different from said at least one polymethylsilsesquioxane film former is chosen from di-block copolymer film formers, tri-block copolymer film formers, multi-block copolymer film formers, radial block copolymer film formers, and star block copolymer film formers.

13. The composition according to claim 1, wherein said at least one film former different from said at least one polymethylsilsesquioxane film former is chosen from:

styrene-butadiene-styrene block copolymers;

styrene-isoprene-styrene block copolymers;

styrene-ethylenebutylene-styrene block copolymers;

styrene-ethylenepropylene block copolymers;

styrene-ethylenebutylene block copolymers;

styrene-butadiene block copolymers;

styrene-isoprene block copolymers;

styrene-butylene-ethylene-styrene block copolymers; and

ethylene-propylene-styrene block copolymers.

14. The composition according to claim 1, wherein said at least one film former different from said at least one polymethylsilsesquioxane film former is present in an amount ranging from 1% to 25% by weight relative to the total weight of the composition.

15. The composition according to claim 1, wherein said at least one polymethylsilsesquioxane film former is present in said composition in a higher amount than the amount of said at least one film former different from said at least one polymethylsilsesquioxane film former.

16. The composition according to claim 1, further comprising at least one additional ingredient chosen from gelling agents; oils; waxes; preservatives; suspending agents; thickening agents; solvents; surfactants; emollients; fatty substances; waxes; formulation aids; spherical compounds; hectorites; synthetic polymers; spreading agents; dispersants; antifoaming agents; wetting agents; UV-screening agents; antioxidants; perfumes; essential oils; essential fatty acids; pigments; mothers-of-pearl; fillers; cosmetic active agents; dermatological active agents; pharmaceutical active agents; moisturizers; vitamins; biological materials; and derivatives of any of the foregoing, wherein said at least one

[098]

	Composition A (Inventive)	Composition B (Comparative)
<b>Phase A</b>		
Organosilicone emulsifier	8.00	8.00
Ester emollient	2.50	2.50
Pigments	10.00	10.00
Fillers	1.00	1.00
Preservative	0.10	0.10
<b>Phase B</b>		
Volatile Solvent	15.00	15.00
Bentone	0.80	0.80
Propylene carbonate	0.15	0.15
Trimethylsiloxysilicate resin <sup>1</sup>	--	12.00
Resin MK <sup>2</sup>	12.00	--
Film formers (Isododecane & hydrogenated styrene-butylene-ethylene-styrene copolymer and hydrogenated ethylene-propylene-styrene copolymer <sup>3</sup> )	8.00	8.00
<b>Phase C</b>		
Propylene Glycol	1.50	1.50
Preservative	0.40	0.40
<b>Phase D</b>		
Fillers	1.45	1.45
<b>Phase E</b>		
Distilled Water	38.00	38.00
Emulsifier	0.20	0.20
Preservative	0.30	0.30
Salt	0.60	0.60

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1. Trimethylsiloxysilicate resin available from GE as SR1000
2. Silicone Resin MK available from Wacker
3. Versagel MD570 from Penreco.